

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

MICK HAIG PRODUCTIONS, E.K.,)	
)	
Plaintiff)	
)	
v.)	Case No. 3:10-cv-01900-N
)	
DOES 1-670,)	
)	
Defendants.)	

SUPPLEMENTAL AFFIDAVIT OF PAUL ALAN LEVY ON ATTORNEY FEES

1. My name is Paul Alan Levy. The Court appointed me as one of the counsel ad litem for the Doe defendants in this case.

Hourly Rate

2. A copy of pages from the 2010 National Law Journal survey of hourly rates charges by firms around the country is attached as Exhibit 4 (for ease of reference, the exhibit numbers are sequential to the exhibits attached to my first fee affidavit).

3. An excerpt from the 2009 Report of the Economic Survey, released on a biennial basis by the American Intellectual Property Lawyers Association, is attached as Exhibit 5.

Hours Expended

4. My time records reflect the following time spent on this case since ad litem counsel filed our application for a certain amount of attorney fees:

Date	Time	Service
10/10/11	.8	Discuss appealability w/co-coun/PCLG; plan response
10/17	.7	Review Stone brief, check rate evid, draft reply brief on amt of fees

10/18	1.3	Resch fee law and jur during premature appeal; edit reply
10/20	.9	Rvw MZ comments, discuss MZ, edit reply, draft supp aff
TOTAL	3.7	

The time spent on October 10 relates to Mr. Stone's appeal rather than the sanctions motion in this Court, however. Consequently, at this time Public Citizen is only seeking an additional \$1,885 (2.9 hours times \$650 per hour) for my work in connection with the motion for an award of sanctions.

Pursuant to 28 U.S.C. § 1746, I hereby certify under penalty of perjury that the foregoing is true and correct. Executed on October 20, 2011.

/s/ Paul Alan Levy
Paul Alan Levy

Private Firm, Partner

Average hourly billing rate in 2008 (Q33)

Private Firm, Partner

		What was your average hourly billing rate in 2008?				
		Number of Individuals	Mean (Average)	First Quartile 25%	Median (Midpoint)	Third Quartile 75%
All Individuals		752	\$447	\$325	\$420	\$559
Years of Intellectual Property Law Experience	Fewer than 5	9	\$264	\$210	\$275	\$320
	5-6	17	\$300	\$250	\$300	\$345
	7-9	67	\$329	\$260	\$300	\$380
	10-14	186	\$429	\$325	\$400	\$530
	15-24	279	\$467	\$350	\$445	\$570
	25-34	118	\$472	\$375	\$450	\$581
	35 or More	71	\$548	\$400	\$575	\$700
Location	Boston CMSA	42	\$539	\$466	\$573	\$639
	NYC CMSA	59	\$566	\$450	\$575	\$700
	Philadelphia CMSA	28	\$442	\$400	\$438	\$483
	Washington, DC CMSA	122	\$506	\$400	\$500	\$601
	Other East	29	\$333	\$275	\$300	\$385
	Metro Southeast	22	\$442	\$348	\$438	\$513
	Other Southeast	21	\$372	\$293	\$350	\$395
	Chicago CMSA	50	\$445	\$379	\$428	\$521
	Minne.-St. Paul PMSA	33	\$393	\$325	\$365	\$448
	Other Central	127	\$329	\$270	\$310	\$375
	Texas	61	\$472	\$338	\$450	\$590
	Los Angeles CMSA	32	\$503	\$371	\$505	\$619
	San Francisco CMSA	54	\$564	\$469	\$578	\$660
	Other West	72	\$372	\$295	\$358	\$429
IP Technical Specialization (>=50%)	Biotechnology	43	\$443	\$305	\$410	\$580
	Chemical	66	\$431	\$310	\$400	\$531
	Computer Hardware	11	\$516	\$425	\$490	\$575
	Computer Software	43	\$418	\$345	\$400	\$485
	Electrical	78	\$473	\$350	\$450	\$583
	Mechanical	191	\$391	\$300	\$365	\$475
	Other areas	7	\$449	\$300	\$365	\$675
Age	Younger than 35	15	\$333	\$250	\$300	\$445
	35-39	71	\$377	\$275	\$335	\$460
	40-44	170	\$405	\$300	\$375	\$490
	45-49	158	\$446	\$340	\$423	\$550
	50-54	118	\$460	\$354	\$444	\$550
	55-59	86	\$496	\$375	\$478	\$601
	60 or Older	132	\$511	\$382	\$513	\$625
Gender	Male	686	\$450	\$325	\$423	\$560
	Female	62	\$421	\$300	\$400	\$553
Highest Non-Law Degree	Bachelor's Degree	493	\$443	\$323	\$410	\$550
	Master's Degree	154	\$445	\$344	\$408	\$550
	Doctorate Degree	46	\$443	\$309	\$400	\$565
Ethnicity	White/Caucasian	683	\$449	\$325	\$425	\$560
	Black/African American	4	\$531	\$319	\$563	\$713
	Hispanic/Latino	9	\$428	\$314	\$400	\$548
	Asian/Pacific Islander	28	\$436	\$339	\$423	\$543
	North American Indian/Native Canadian	1	ISD	ISD	ISD	ISD
	Blended	6	\$327	\$254	\$290	\$419
	Other	9	\$362	\$298	\$390	\$420
Full-time Intellectual Property lawyers and agents in the firm or corporation	1-2	52	\$317	\$253	\$300	\$375
	3-5	79	\$337	\$275	\$325	\$400
	6-10	92	\$358	\$292	\$330	\$400
	11-25	139	\$406	\$300	\$381	\$470
	26-50	125	\$454	\$350	\$425	\$553
	51-100	134	\$533	\$439	\$525	\$605
	101-150	48	\$574	\$480	\$590	\$674
	More than 150	74	\$599	\$499	\$598	\$696

A nationwide sampling of law firm billing rates

The National Law Journal asked the respondents to its 2010 survey of the nation's 250 largest law firms to provide a range of hourly billing rates. Firms that supplied the information are listed in alphabetical order. Non-NLJ 250 firms appear separately.

FIRM NAME	PRINCIPAL OR LARGEST OFFICE	NUMBER OF ATTORNEYS	FIRMWIDE			PARTNER			ASSOCIATE		
			AVERAGE	MEDIAN	HIGH	AVERAGE	MEDIAN	HIGH	AVERAGE	MEDIAN	HIGH
Adams and Reese	New Orleans	265	\$265	\$270	\$550	\$250	\$344	\$340	\$290	\$195	\$229
Alston & Bird	Atlanta	786	\$515	\$505	\$865	\$450	\$627	\$615	\$590	\$270	\$405
Archer & Greiner	Haddonfield, N.J.	176			\$560	\$305			\$340	\$175	
Baker Fox	Washington	329			\$765	\$400			\$475	\$240	
Barnes & Thornburg	St. Louis	233			\$475	\$300			\$325	\$200	
Bell	Memphis, Tenn.	552	\$312	\$305	\$595	\$255	\$357	\$348	\$320	\$165	\$231
Berman, Caldwell & Berkowitz	Indianapolis	494	\$367	\$375	\$613	\$298	\$416	\$415	\$355	\$225	\$261
Bennett, Friedlander, Coplan & Aronoff	Cleveland	161	\$315		\$575	\$350	\$335		\$360	\$195	\$245
Berkowitz	Riverside, Calif.	183			\$550	\$310			\$395	\$225	
Bischoff & Krieger	Philadelphia	472	\$510	\$495	\$855	\$440	\$615	\$625	\$550	\$250	\$361
Blank Rome	Syracuse, N.Y.	199	\$260	\$255	\$475	\$220	\$309	\$330	\$280	\$160	\$208
Bond, Schoenack & King	Minneapolis	190	\$373	\$390	\$600	\$290	\$437	\$440	\$315	\$210	\$240
Borgers and Morgan	Orlando, Fla.	160	\$307	\$295	\$475	\$260	\$372	\$375	\$350	\$175	\$242
Bryant and Cassel	Denver	248	\$391	\$380	\$810	\$295	\$463	\$448	\$360	\$200	\$256
Brownstein Hyatt Farber Schreck	St. Louis	928	\$464	\$450	\$790	\$370	\$553	\$540	\$550	\$185	\$344
Bryan Cave	Los Angeles	164	\$415	\$415	\$625	\$270	\$490	\$495	\$450	\$195	\$328
Buchalter Nemer	Pittsburgh	423			\$900	\$310			\$465	\$210	
Buchanan Ingersoll & Rooney	Birmingham, Ala.	256	\$328	\$330	\$500	\$210	\$361	\$365	\$335	\$200	\$250

Carlton Fields	Tampa, Fla.	275	\$388	\$390	\$775	\$325	\$455	\$455	\$375	\$195	\$268	\$270
Chadbourne & Parke	New York	444	\$456	\$450	\$995	\$390	\$769	\$785	\$625	\$110	\$442	\$455
Cozen O'Connor	Philadelphia	521	\$422	\$390	\$880	\$310	\$497	\$475	\$885	\$225	\$326	\$320
Curtis, Mallet-Prevost, Colt & Mosle	New York	252	\$489	\$480	\$785	\$675	\$669	\$675	\$375	\$290	\$365	\$330
Davis Wright Tremaine	Seattle	491	\$355	\$365	\$795	\$320	\$486	\$480	\$435	\$210	\$304	\$305
Dickinson Wright	Detroit	230			\$575	\$355			\$275	\$195		
Dickstein Shapiro	Washington	336	\$546	\$530	\$950	\$525	\$556	\$650	\$530	\$265	\$426	\$450
Dinsmore & Shohl	Cincinnati	402	\$302	\$290	\$590	\$220	\$360	\$355	\$300	\$175	\$222	\$218
Dorsey & Whitney	Minneapolis	578	\$410	\$395	\$795	\$440	\$515	\$515	\$290	\$180	\$285	\$270
Duane Morris	Philadelphia	629	\$483	\$483	\$850	\$240	\$350	\$545	\$480	\$135	\$349	\$350
Dykema Gossett	Detroit	333	\$445	\$450	\$635	\$360	\$495	\$515	\$450	\$225	\$325	\$320
Edert Scannus Chertn & Mellott	Pittsburgh	329			\$625	\$250			\$320	\$150		
Edwards Angell Palmer & Dodge	Boston	505	\$451	\$450	\$780	\$345	\$571	\$575	\$610	\$200	\$323	\$303
Epstein Becker & Green	New York	302	\$429	\$425	\$850	\$350	\$520	\$500	\$450	\$180	\$325	\$320
Fisher & Phillips	Atlanta	238			\$505	\$340			\$360	\$220		
Fitzpatrick, Calla, Harper & Scinto	New York	175			\$730	\$460			\$440	\$275		\$325
Foley & Lardner	Milwaukee	895	\$554	\$570	\$1,035		\$654	\$640		\$255	\$426	\$410
Ford & Harrison	Atlanta	176			\$620	\$375			\$390	\$250		\$290
Fox Rothschild	Philadelphia	472	\$407	\$415	\$690	\$315	\$473	\$470	\$475	\$235	\$298	\$290
Frost Brown Todd	Cincinnati	404	\$279	\$280	\$515	\$200	\$326	\$325	\$250	\$150	\$189	\$190
Gardere Wynne Sewell	Dallas	270	\$445	\$450	\$815	\$380	\$531	\$525	\$445	\$195	\$311	\$310
Gibbons	Newark, N.J.	223	\$404	\$410	\$790	\$390	\$479	\$475	\$450	\$250	\$289	\$275
Godfrey & Kahn	Milwaukee	172			\$495	\$325			\$340	\$180		
Gray/Robinson	Orlando, Fla.	250			\$750	\$225			\$315	\$150		
Greenberg Traurig	New York	1,763	\$453	\$480	\$875	\$355	\$550	\$580	\$610	\$200	\$332	\$350
Harris Beach	Rochester, N.Y.	176			\$500	\$275			\$250	\$140		
Hiscock & Barday	Syracuse, N.Y.	175	\$311	\$275	\$650	\$195	\$348	\$305	\$440	\$150	\$234	\$195

BILLING SURVEY

SAMPLING, FROM PAGE 12

FIRM NAME	PRINCIPAL OR LARGEST OFFICE	NUMBER OF ATTORNEYS	FIRMWIDE			PARTNER			ASSOCIATE			
			AVERAGE	MEDIAN	HIGH	LOW	AVERAGE	MEDIAN	HIGH	LOW	AVERAGE	MEDIAN
Hodgson Russ	Buffalo, N.Y.	197	\$328	\$320	\$665	\$230	\$374	\$370	\$410	\$175	\$238	\$230
Holland & Knight	Washington	942	\$418	\$425	\$850	\$300	\$499	\$495	\$480	\$185	\$288	\$280
Holme Roberts & Owen	Denver	192	\$355	\$345	\$635	\$285	\$415	\$410	\$530	\$170	\$295	\$285
Husch Blackwell	St. Louis	554	\$329	\$331	\$804	\$230	\$357	\$375	\$415	\$171	\$220	\$205
Jackson Kelly	Charleston, W.Va.	161			\$495	\$245			\$275	\$155		
Jackson Lewis	White Plains, N.Y.	661	\$364	\$300	\$715	\$260	\$428	\$430	\$440	\$150	\$282	\$275
Jones, Walker, Waechter, Poitavent, Carrière & Denègre	New Orleans	302			\$620	\$195			\$275	\$140		
Kelley Dye & Warren	New York	325			\$900	\$465			\$565	\$275		
Kilpatrick Stockton	Atlanta	423	\$425	\$425	\$730	\$375	\$527	\$520	\$465	\$225	\$320	\$320
Knobbe, Martens, Olson & Bear	Irvine, Calif.	266	\$432	\$415	\$710	\$395	\$511	\$485	\$450	\$285	\$332	\$335
Lane Powell	Seattle	175	\$349	\$380	\$600	\$310	\$431	\$430	\$350	\$230	\$278	\$275
Lathrop & Gage	Kansas City, Mo.	286			\$490	\$255			\$265	\$180		
Lindquist & Vennum	Minneapolis	184	\$330	\$350			\$415	\$410			\$235	\$230
Littler Mendelson	San Francisco	764	\$372	\$355	\$650	\$290	\$445	\$435	\$480	\$210	\$296	\$285
Locke Lord Bissell & Liddell	Dallas	642	\$486	\$515	\$1,120	\$400	\$599	\$600	\$525	\$215	\$320	\$300
Loeb & Loeb	New York	300			\$975	\$475			\$575	\$275		
Lowenstein Sandler	Roseland, N.J.	238			\$825	\$440			\$575	\$235		
Manatt, Phelps & Phillips	Los Angeles	320	\$568	\$590	\$850	\$525	\$651	\$650	\$525	\$200	\$405	\$410
Marshall, Dennehey Warner, Coleman & Goggin	Philadelphia	412			\$410	\$145			\$320	\$130		
Maynard, Cooper & Gale	Birmingham, Ala.	212			\$600	\$325			\$295	\$235		
McCarter & English	Newark, N.J.	382	\$355	\$400	\$825	\$360	\$498	\$485	\$405	\$215	\$313	\$315
McElroy, Deutsch, Mulvaney & Carpenter	Morristown, N.J.	269	\$210	\$225	\$550	\$295	\$280	\$260	\$275	\$150	\$190	\$185

McKenna Long & Aldridge	Atlanta	429	\$455	\$450	\$630	\$325	\$543	\$535	\$600	\$220	\$355	\$350
Michael Best & Friedrich	Milwaukee	214	\$346	\$345	\$650	\$235	\$400	\$390	\$320	\$190	\$239	\$230
Miles & Stockbridge	Baltimore	223			\$695	\$325			\$370	\$220		
Miller & Martin	Chattanooga, Tenn.	192	\$328	\$335	\$610	\$235	\$361	\$365	\$275	\$180	\$218	\$210
Moore & Van Allen	Charlotte N.C.	282	\$364	\$350	\$785	\$265	\$441	\$425	\$350	\$180	\$257	\$250
Nelson Mullins Riley & Scarborough	Columbia, S.C.	400	\$347	\$340	\$830	\$245	\$389	\$385	\$335	\$185	\$248	\$240
Nixsen Pruett	Columbia, S.C.	178			\$525	\$230			\$230	\$160		
Nixon Peabody	New York	682	\$429	\$430	\$905	\$375	\$613	\$625	\$580	\$195	\$388	\$395
Ogletree, Deakins, Nash, Smoak & Stewart	Greenville, S.C.	485	\$351		\$575	\$300	\$389		\$390	\$195	\$285	
Patton Boggs	Washington	525	\$482	\$485	\$390	\$355	\$645	\$625	\$550	\$215	\$399	\$400
Pepper Hamilton	Philadelphia	458	\$326		\$825	\$420	\$547		\$465	\$230	\$329	
Perkins Coie	Seattle	683	\$447		\$825	\$275	\$334	\$330	\$570	\$200	\$354	
Pheaps Dunbar	New Orleans	281	\$226	\$215	\$385	\$180	\$272	\$265	\$240	\$145	\$183	\$180
Phillips Lytle	Buffalo, N.Y.	177	\$255	\$260	\$535	\$260	\$352	\$350	\$450	\$150	\$283	\$230
Poisinelli Shugart	Kansas City, Mo.	500			\$600	\$250			\$325	\$185		
Quarles & Brady	Milwaukee	419	\$364	\$360	\$660	\$290	\$438	\$435	\$400	\$210	\$260	\$245
Roetzel & Andress	Akron, Ohio	215	\$317	\$325	\$525	\$225	\$357	\$350	\$325	\$165	\$243	\$245
Rutan & Tucker	Costa Mesa, Calif.	133			\$650	\$355			\$450	\$225		
Saul Ewing	Philadelphia	219	\$412	\$425	\$800	\$320	\$491	\$478	\$475	\$225	\$310	\$285
Schulke Roth & Zabel	New York	433			\$895	\$735			\$690	\$275		
Seyfarth Shaw	Chicago	704	\$377	\$375	\$770	\$335	\$505	\$503	\$535	\$185	\$325	\$320
Sheppard Mullin, Richter & Hampton	Los Angeles	464			\$820	\$495			\$620	\$270		
Shumaker, Loop & Kendrick	Toledo, Ohio	210	\$331	\$350	\$440	\$250	\$366	\$365	\$315	\$185	\$246	\$235
Smith, Gambrell & Russell	Atlanta	175			\$740	\$325			\$440	\$195		
Snell & Wilmer	Phoenix	386	\$338	\$325	\$795	\$315	\$486	\$475	\$550	\$175	\$282	\$265
Steel Rives	Portland, Ore.	368	\$381	\$395	\$600	\$315	\$441	\$443	\$390	\$190	\$270	\$265
Strasburger & Price	Dallas	181	\$336	\$351	\$617	\$250	\$372	\$393	\$306	\$194	\$243	\$245
Taft, Stettinius & Hollister	Cincinnati	286	\$315	\$315	\$500	\$220	\$358	\$350	\$365	\$165	\$227	\$225

BILLING SURVEY

SAMPLING, FROM PAGE 13

FIRM NAME	PRINCIPAL OR LARGEST OFFICE	NUMBER OF ATTORNEYS	FIRMWIDE			PARTNER			ASSOCIATE			
			AVERAGE	MEDIAN	HIGH	LOW	AVERAGE	MEDIAN	HIGH	LOW	AVERAGE	MEDIAN
Thompson Coburn	St. Louis	326			\$610	\$300			\$395	\$190		
Thompson & Knight	Dallas	328			\$825	\$410			\$440	\$265		
Townsend and Townsend and Crew	San Francisco	177	\$320	\$290	\$750	\$470	\$563	\$550	\$460	\$260	\$345	\$325
Ujmer & Berne	Cleveland	177			\$565	\$260			\$375	\$185		
Vedder Price	Chicago	255	\$425	\$425	\$720	\$370	\$483	\$470	\$365	\$255	\$326	\$325
Venable	Washington	494	\$484	\$495	\$950	\$445	\$590	\$585	\$500	\$280	\$353	\$330
Williams Mullen	Richmond, Va.	300	\$368	\$340	\$645	\$315	\$428	\$395	\$370	\$230	\$279	\$280
Winstead	Dallas	264	\$395		\$655	\$340	\$462		\$390	\$215	\$291	
Winston & Strawn	Chicago	899	\$486	\$490	\$1,075	\$475	\$670	\$660	\$610	\$250	\$393	\$375
Womble Carlyle Sandridge & Rice	Winston Salem, N.C.	503	\$372	\$375	\$625	\$300	\$461	\$465	\$445	\$210	\$291	\$285
Wyatt, Tarrant & Combs	Louisville, Ky.	186			\$500	\$245			\$285	\$180		
NON-NLJ 250 FIRMS												
Brinks Hofer Gilson & Lione	Chicago	149	\$435	\$435	\$725	\$345	\$541	\$560	\$420	\$195	\$308	\$285
Fowler White Boggs	Tampa, Fla.	127	\$350	\$370	\$575	\$325	\$400	\$388	\$315	\$205	\$250	\$255
Lewis, Rice & Fingersh	St. Louis	157			\$460	\$260			\$315	\$150		
Luce, Forward, Hamilton & Scripps	San Diego	143			\$670	\$350			\$445	\$245		
McAndrews, Held & Malloy	Chicago	102			\$675	\$260			\$350	\$225		
Montgomery, McCracken, Walker & Rhoads	Philadelphia	117			\$625	\$380	\$461		\$395	\$205	\$284	
Morris, Manning & Martin	Atlanta	135	\$424	\$415	\$760	\$425	\$492	\$490	\$545	\$225	\$353	\$360
Schwabe, Williamson & Wyatt	Portland, Ore.	158	\$350	\$340	\$540	\$310	\$415	\$410	\$450	\$200	\$260	\$250

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MICK HAIG PRODUCTIONS, E.K.,

Plaintiff,

v.

DOES 1-670

Defendant.

CA. 3:10-cv-01900-N

**SUPPLEMENTAL AFFIDAVIT OF MATTHEW ZIMMERMAN IN SUPPORT OF
AD LITEM COUNSEL'S PETITION FOR ATTORNEY'S FEES AND EXPENSES**

1. I am an *ad litem* counsel for the Defendants in this matter and a member in good standing of the California State Bar. I have personal knowledge of the matters stated in this declaration. If called upon to do so, I am competent to testify to all matters set forth herein.
2. My 2011 hourly rate, which is the hourly rate for purposes of this matter, is \$550.00 per hour.
3. I now estimate the hours spent, in addition to my previous affidavit submitted on October 7th, 2011, to be as follows:

<u>Date</u>	<u>Task</u>	<u>Hours</u>
19-Oct-11	Research fee standard; draft and edit reply in support of fee petition and related declarations.	1.25
20-Oct 11	Edit and finalize reply and related declarations.	0.50
=====		===
Total hours:		1.75

4. Including time submitted here and in my affidavit of October 7, 2011, I spent no fewer than 32.25 hours in bringing the motion for sanctions, subsequent fee petition, and reply in support of the fee petition. At my hourly rate of \$550 per hour, my total fees are now \$17,737.50.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct to the best of my knowledge and belief. Executed October 20, 2011, in San Francisco, California.

/s/ Matthew Zimmerman
Matthew Zimmerman